

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

PHILLIP OWENS,

Petitioner,

v.

CAUSE NO. 3:25-CV-454-JD-JEM

WARDEN,

Respondent.

OPINION AND ORDER

Phillip Owens, a prisoner without a lawyer, filed a habeas petition challenging his conviction for battery and operating a vehicle while intoxicated under Case No. 43D01-2010-F5-717. Following a guilty plea, on March 21, 2021, the Kosciusko Superior Court sentenced Owens to three years of incarceration. Pursuant to Section 2254 Habeas Corpus Rule 4, the court must dismiss the petition “[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court.”

This is not the first time Owens has sought federal habeas relief in connection with this conviction. He first attempted to obtain habeas relief in *Owens v. Sheriff*, 3:23-cv-1123 (N.D. Ind. dismissed Feb. 27, 2024), but the court dismissed the habeas petition because it was untimely. Pursuant to 28 U.S.C. § 2244(b), “[a] district court *must* dismiss a second or successive petition, without awaiting any response from the government, unless the court of appeals has given approval for its filing.” *Nunez v. United States*, 96 F.3d 990, 991 (7th Cir. 1996). Because the Seventh Circuit Court of Appeals has not

authorized Owens to file a successive petition, Owens cannot proceed on one here, so the court dismisses this case.

Pursuant to Section 2254 Habeas Corpus Rule 11, the court must consider whether to grant or deny a certificate of appealability. To obtain a certificate of appealability when a petition is dismissed on procedural grounds, the petitioner must show that reasonable jurists would find it debatable (1) whether the court was correct in its procedural ruling and (2) whether the petition states a valid claim for denial of a constitutional right. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Here, there is no basis for finding that jurists of reason would debate the correctness of this procedural ruling. Therefore, the court denies Owens a certificate of appealability.

For these reasons, the court:

- (1) DISMISSES this case as an attempt to pursue an unauthorized successive petition in violation of 28 U.S.C. § 2244(b)(3)(A);
- (2) DENIES Phillip Owens a certificate of appealability pursuant to Section 2254 Habeas Corpus Rule 11; and
- (3) DIRECTS the clerk to close this case.

SO ORDERED on May 23, 2025

/s/JON E. DEGUILIO
JUDGE
UNITED STATES DISTRICT COURT